IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 505 of 2002
AND
CIVIL APPLICATION NO.7164 OF 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KENEL OIL & EXPORT INDUSTRIES LTD.

Versus

VIBHUTIPRASAD NARAD JHA

Appearance:
1. Civil Revision Application No. 505 of 2002
MR KR RAVAL for Petitioner No. 1-4
MR RL MEHTA for Respondent

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 11/12/2002

ORAL JUDGEMENT

#. The petitioners are the original defendants of Civil Misc. Application No.452 of 2000, which was filed by the present respondent. The said application was filed under

Section 24 of the Bombay Rent Act on the ground that the landlord has withheld essential services in the nature of electricity and water connection. The present respondent herein has filed the suit, being H.R.P.Suit No.195 of 2000, which is pending in the Small Causes Court, Ahmedabad. The said suit is filed against the petitioners for declaration and injunction on the ground that the plaintiff, who is occupying one room in the premises situated at GIDC Naroda Estate, is an employee of the defendants and that the defendants may be restrained from disturbing his possession. In that suit, interim injunction is also granted in favour of the present respondent - original plaintiff of that suit and during the pendency of the said suit, the respondent herein submitted the aforesaid application under Section 24 of the Bombay Rent Act. The trial Court passed the order in the aforesaid Civil Misc. Application No.542 of 2000 by ordering restoration of electric connection as well as water supply. The present petitioners challenged the said order by way of revision under Section 29(3) of the Bombay Rent Act, being Civil Revision Application No.36 of 2001. The Appellate Bench of the Small Causes Court, Ahmedabad disposed of the said revision by partly allowing the same. The Appellate Bench set aside the order about reconnection of water supply, but confirmed the order as regards restoration of electric supply. The present petitioners have challenged the aforesaid order by filing this revision application.

#. During the hearing of this revision application, Mr.K.R.Raval, on instructions from the representative of his client, who is personally present in the Court Mr.Niravbhai Shah Administrative Officer of petitioner No.1 - Company, states that the petitioners will restore electric connection, without prejudice to their rights and contentions to the effect that the respondent is a trespasser, on or before 31.12.2002. He further submitted that, the petitioners will put sub-meter and through the said sub-meter electric supply will be made available to the respondent. He further submitted that the respondent should be directed to pay electric consumption charges as per the reading which might be recorded in the sub-meter as well as as per the rates prescribed by the Gujarat Electricity Board in this behalf. He, however, submitted that, the respondent will be required to pay the charges only for consumption of electric supply, which might be consumed and recorded in the sub-meter.

#. Mr.R.L.Mehta, learned advocate, appearing for the respondent, states that the respondent will pay necessary

electric consumption charges as per the record of the sub-meter and that he will pay such charges regularly and will not commit any default. He further states that the respondent - Mr.Vibhutiprasad Narad Jha is personally present before this Court and on his instructions, he has made the aforesaid statement.

#. In view of the aforesaid statement of Mr.Raval as well as coupled with the statement of the respondent about payment of electricity charges, Mr.Raval wants to withdraw this revision application. Permission is granted accordingly.

#. At this stage, the affidavit of the respondent, by which, he has tendered apology to the learned advocate Mr.Raval is also taken on record. However, in the facts and circumstances of the case, the Small Causes Court, Ahmedabad is directed to dispose of the pending suit, which is filed by the respondent, being H.R.P.Suit No.195 of 2000 expeditiously and latest by 30.4.2003.

#. In view of the above order, no order on Civil Application No.7164 of 2002. Civil Application stands disposed of accordingly.

#. During pendency of this Civil Revision Application, this Court (Coram : D.P.Buch,J) had appointed the Court Commissioner and one Mr.A.P.Mistri was appointed as Court Commissioner for the purpose of drawing local panchnama. He has submitted his report. The present petitioners have deposited Rs.1000/- (Rupees one thousand only) towards remuneration of the Court Commissioner. The said amount towards remuneration of the Court Commissioner is accordingly sanctioned and the Court Commissioner will be entitled to withdraw the said amount.

#. This Revision Application stands disposed of as withdrawn subject to what is stated above. Rule is discharged with no order as to costs. Ad-interim relief granted earlier stands vacated. Writ to be sent forthwith.

(P.B.Majmudar,J)
(pathan)